

OAC 252:100, Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

➤ Christina Hagens

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Air Quality Division



SC 5 Rule Change Overview

- Who: minor source facilities subject to annual operating fees
- What: proposed use of Consumer Price Index (CPI) to annually adjust fees
- When: Beginning July 1, 2024 (new fee applied)
- Why: Offset budget shortfalls, retain full-time positions, and better serve the public and environment of Oklahoma

Subchapter 5 Proposed Language

(b) Fee schedule.

(1) **Minor facilities.** Beginning July 1, 2008, annual operating fees invoiced for minor facilities shall be \$25.12 per ton of regulated air pollutant (for fee calculation). Starting July 1, 2024, the annual operating fees for minor facilities shall be adjusted each year based on the CPI pursuant to (b)(3) of this section. The invoiced, CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

(2) **Part 70 Sources.** Beginning July 1, 2008, annual operating fees invoiced for Part 70 sources shall be \$32.30 per ton of regulated air pollutant (for fee calculation) and shall be adjusted each year pursuant to (b)(3) of this section. The invoiced, CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

(3) **Use of Consumer Price Index (CPI) to adjust annual operating fees.** Annual operating fees for minor facilities (starting July 1, 2024) and Part 70 sources shall be adjusted automatically each year by the percentage, if any, by which the CPI for the most recent calendar year ending before the beginning of such year differs from the CPI for the calendar year 2007. The CPI for any calendar year is the average of the CPI for all-urban consumers published by the Department of Labor, as of the close of the twelve-month period ending on August 31 of each calendar year.

➤ Minor facilities start with \$25.12 fee, then CPI-adjusted like Part 70 Sources

➤ \$25.12 adjusted from 2007 CPI projected to be \$36.50 in 2024

➤ *using forecasted 2023 CPI*

➤ Both facility types would use difference between current and 2007 CPI for adjustment

December

(b) Fee schedule.

(1) **Minor facilities.** Beginning July 1, 2008, annual operating fees invoiced for minor facilities shall be \$25.12 per ton of regulated air pollutant (for fee calculation). Starting July 1, 2024, the annual operating fees for minor facilities shall be adjusted each year based on the CPI pursuant to (b)(3) of this section. The invoiced, CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

(2) **Part 70 Sources.** Beginning July 1, 2008, annual operating fees invoiced for Part 70 sources shall be \$32.30 per ton of regulated air pollutant (for fee calculation) and shall be adjusted each year pursuant to (b)(3) of this section. The invoiced, CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

(3) **Use of Consumer Price Index (CPI) to adjust annual operating fees.** Annual operating fees for minor facilities (starting July 1, 2024) and Part 70 sources shall be adjusted automatically each year by the percentage, if any, by which the CPI for the most recent calendar year ending before the beginning of such year differs from the CPI for the calendar year 2007. The CPI for any calendar year is the average of the CPI for all-urban consumers published by the Department of Labor, as of the close of the twelve-month period ending on August 31 of each calendar year.

➤ January SC 5 Proposed Rule:

➤ https://www.deq.ok.gov/wp-content/uploads/air-division/AQAC_2023_JAN_SC5_RUL.pdf

January

(b) Fee schedule.

(1) **Minor facilities.** ~~Beginning July 1, 2008~~Until June 30, 2024, annual operating fees invoiced for minor facilities shall be \$25.12 per ton of regulated air pollutant (for fee calculation). Starting July 1, 2024, the annual operating fees invoiced for minor facilities shall be \$36.50 per ton of regulated air pollutant (for fee calculation) and shall be adjusted each year thereafter based on the CPI pursuant to (b)(3)(A) of this section. The invoiced, CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

(2) **Part 70 Sources.** Beginning July 1, 2008, annual operating fees invoiced for Part 70 sources shall be \$32.30 per ton of regulated air pollutant (for fee calculation) and shall be adjusted each year pursuant to (b)(3)(B) of this section. The invoiced, CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

(3) Use of Consumer Price Index (CPI) to adjust annual operating fees.

(A) **Minor facilities.** Annual operating fees for minor facilities shall be adjusted automatically each year by the percentage, if any, by which the CPI for the most recent calendar year ending before the beginning of such a year differs from the CPI for the calendar year 2024.

(B) **Part 70 Sources.** Annual operating fees for Part 70 sources shall be adjusted automatically each year by the percentage, if any, by which the CPI for the most recent calendar year ending before the beginning of such year differs from the CPI for the calendar year 2007.

(C) **Consumer Price Index.** The CPI for any calendar year is the average of the CPI for all-urban consumers published by the Department of Labor, as of the close of the twelve-month period ending on August 31 of each calendar year.

Estimated Fee Data

- Existing fee of \$25.12 to proposed fee of \$36.50 (per ton regulated air pollutant for fee calculation)
- Increased base fee would generate ~\$1.5m in additional revenue for AQD in 2024 (greatest single-year revenue gain)
- Median facility invoice change: \$87
- Median company invoice change: \$352

Staff requests AQAC not vote on the Subchapter 5
proposed revisions until the next council meeting
(January 11, 2023)

► Christina Hagens

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Air Quality Division



OKLAHOMA
Environmental
Quality

Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program [New]

➤ Brooks Kirlin, P.E.

Environmental Engineer III

Air Quality Division



OKLAHOMA
Environmental
Quality

"The Legislature hereby finds that the reduction of emissions from upstream and midstream oil and gas production, exploration, completions, gatherings, storage, processing, and transmission activities serves the interests of the citizens of Oklahoma and such emission reduction activities with **new and innovative technologies** should be encouraged and incentivized."

- *68 O.S. § 55007*

"Oklahoma Emission Reduction Technology Incentive Act"

- Included as Sections 1-7 of HB 3568
 - Codified as 68 O.S. §§ 55006 through 55012
 - 2022 Legislative Session, Effective July 1, 2022
- Oklahoma Emission Reduction Technology Rebate Program
 - Rebate up to 25% of expenditures for "Emission Reduction Projects"
 - Claims reviewed and approved by DEQ and
 - Claims paid by the Oklahoma Tax Commission
 - Oklahoma Emission Reduction Technology Incentive Revolving Fund

Proposed Subchapter 49

- § 55011 specifically authorizes DEQ to promulgate implementation rules
- New Subchapter 49, with the following Sections:
 - 252:100-49-1. Purpose and applicability
 - 252:100-49-3. Definitions
 - 252:100-49-5. Program criteria and qualification determination
 - 252:100-49-7. Sunset provision

Proposed Subchapter 49

- 252:100-49-1. Purpose and applicability
- 252:100-49-3. Definitions
- 252:100-49-5. Program criteria and qualification determination
- 252:100-49-7. Sunset provision

Proposed Subchapter 49

- 252:100-49-1. Purpose and applicability
- **252:100-49-3. Definitions**
- 252:100-49-5. Program criteria and qualification determination
- 252:100-49-7. Sunset provision

"Emission Reduction Project" Defined

- Existing and new technology projects that reduce emissions of regulated pollutants from stationary sources; and
- Existing and new technology projects that reduce emissions from the following activities:
 - upstream and midstream oil & gas exploration,
 - production
 - completions,
 - gathering,
 - storage,
 - processing,
 - transmission
- through the following:
 - the replacement, repair, or retrofit of stationary compressor engines,
 - the installation of systems and/or equipment to reduce or eliminate the loss of gas, venting of gas, flaring of gas, or burning of gas using other combustion control devices, or
 - the installation of emissions monitoring equipment or devices.

68 O.S. § 55008

Proposed Subchapter 49

- 252:100-49-1. Purpose and applicability
- **252:100-49-3. Definitions**
- 252:100-49-5. Program criteria and qualification determination
- 252:100-49-7. Sunset provision

Proposed Subchapter 49

- 252:100-49-1. Purpose and applicability
- 252:100-49-3. Definitions
- **252:100-49-5. Program criteria and qualification determination**
- 252:100-49-7. Sunset provision

252:100-49-5. Program criteria and qualification determination

- 100-49-5(a) – Applying for rebate eligibility
 - Timing: within 6 months of end of Fiscal Year (i.e., by December 31st)
 - Submit project documentation to DEQ
 - Project description
 - Estimated emission reductions
 - Itemization of expenses, with documentation
 - Statement that the project implementation is complete

252:100-49-5. Program criteria and qualification determination

- 100-49-5(a)(4) uses language of 68 O.S. § 55009 (A) – rebate is for:
 - Documented expenditures
 - Made in this state
 - Directly attributable to the implementation of the qualified Emission Reduction Project

252:100-49-5. Program criteria and qualification determination

➤ Subsection 100-49-5(a) – Applying for rebate eligibility

➤ Paragraphs (5)-(9) – Certifications

➤ Project not per enforcement action

➤ All Oklahoma tax returns and documents filed with OTC [68 O.S. § 55009 (C)(2)]

➤ General liability insurance and workers' compensation policy [68 O.S. § 55009 (C)(3)]

➤ Professional Engineer

➤ Responsible official

252:100-49-5. Program criteria and qualification determination

- Subsection 100-49-5(a) – Applying for rebate eligibility

- Paragraphs (5)-(9) – Certifications

- Project not per enforcement action

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- **Professional Engineer**

- Responsible official

252:100-49-5. Program criteria and qualification determination

- Subsection 100-49-5(a) – Applying for rebate eligibility
 - Paragraphs (10) – Rebate claim application/review fee
- Subsection 100-49-5(b) – DEQ review of rebate claim
 - DEQ review the rebate claim information
 - will approve or disapprove each rebate claim, and
 - notify OTC & inform the claimant
- Subsection 100-49-5(c) – Effect on OTC authority

Proposed Subchapter 49

- 252:100-49-1. Purpose and applicability
- 252:100-49-3. Definitions
- 252:100-49-5. Program criteria and qualification determination
- **252:100-49-7. Sunset provision**

Next Steps

➤ Normal Rulemaking Process/Timing

- Next regularly scheduled AQAC meeting is January 11, 2023

 - Comment period December 1, 2022 to January 3, 2023

 - EQB meeting scheduled February 17, 2023

- Anticipated rule effective date ~ September 15, 2023

Staff requests AQAC not vote on the proposed new
Subchapter 49 until the next council meeting
(January 11, 2023)

Questions?

Oklahoma Emission Reduction Technology Rebate Program

➤ Brooks Kirlin, P.E.

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AQD Rules & Planning Section



OKLAHOMA
Environmental
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OTC issues rebate for all DEQ-approved claims

- Oklahoma Emission Reduction Technology Incentive Revolving Fund
 - created by § 55010
- Funding would be provided by:
 - any public or private donations, contributions, and gifts
 - Legislative appropriations
 - No appropriated funds for FY 2022
 - Stakeholders working to secure initial and ongoing funding
- Total rebate payments limited to \$10,000,000 per Fiscal Year
 - provisions for partial and eventual full payment if approved claims exceed annual limit or fund balance